

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED FOOD AND COMMERCIAL)	
WORKERS UNION, et al.,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-09-1114-D
)	
CHESAPEAKE ENERGY CORPORATION,)	
et al.,)	
)	
Defendants.)	

ORDER

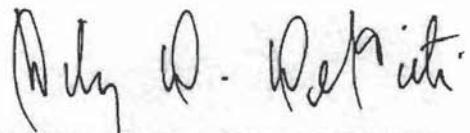
Pursuant to Fed. R. Civ. P. 53(a)(1)(C), the Court intends to appoint a special master for the purpose of addressing the parties' unresolved dispute regarding the search terms to be utilized in electronic discovery. As required by Fed. R. Civ. P. 53(b)(1), the Court hereby so notifies the parties and provides them an opportunity to respond to the Court's intended appointment and to suggest alternative candidates for appointment as special master, pursuant to Fed. R. Civ. P. 53(b)(1).

With regard to potential candidates for appointment, the parties are advised that the Court is considering appointing Sam A. Joyner, retired United States Magistrate Judge for the Northern District of Oklahoma. In addition to fourteen years of service as United States Magistrate Judge for the Northern District, Judge Joyner served as a part-time magistrate judge for twenty years. He also has expertise in the subject of electronic discovery, and has authored articles and made presentations on this subject during the past several years. Further, as Magistrate Judge, he presided over discovery and pretrial matters in securities fraud litigation. A copy of Judge Joyner's resume is attached hereto for the parties' review and consideration.

The parties are directed to respond to this notification no later than fourteen (14) days from

the date of this Order. If a party presents a candidate for consideration as special master, the candidate's resume or curriculum vitae should be submitted with the party's response.

IT IS SO ORDERED this 9th day of April, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

SAM A. JOYNER PLLC

*Electronic Discovery
Litigation Consultant*

RESUME

EDUCATION:

SECONDARY:	Lawton High School, Lawton, Oklahoma	1959
UNDERGRADUATE:	University of Oklahoma, Pre-law	1959-1961
LAW SCHOOL:	George Washington University, B.A.,	1961-1963
MASTERS DEGREE:	University of Oklahoma, J.D.	1963-1966
	University of Oklahoma	1987

FULL TIME JUDICIAL OFFICE:

- United States Magistrate Judge for the Northern District of Oklahoma in Tulsa, June 1, 1995 through January 1, 2009.

- **FULL COMPLEMENT OF CIVIL JUDICIAL WORK:**

There have been several large, complex multiparty cases referred to my chambers for all actions consistent with my jurisdiction. Examples of such cases include:

1. FDIC v. Grant and Frates – two large bank failure cases brought by the FDIC against the board of directors of Sooner Federal Savings & Loan.

2. USA ex rel. William I. Koch v. Koch Industries-- a multi-million dollar *qui tam* case against Koch Industries, Inc., based on alleged oil mis-measurement on federal and Indian lands.

3. In re CFS-Related Securities Fraud Litigation –A multi-billion dollar securities fraud case brought in the wake of Commercial Financial Services' demise including 15 cases with 100's of plaintiffs and 11 defendants. In that case, 51 Motions to Dismiss were resolved with a 200 page report and recommendation. Each hearing typically involved 40-50 attorneys from around the nation.

Each of these cases spanned several years, consumed large amounts of judicial resources, and presented numerous challenges regarding the efficient management of litigation.

Published opinions in these and other cases can be viewed at: In re Cooper Mfg. Corp., 131 F. Supp. 2d 1238 (N.D. Okla. 2001); Easiley v. Norris, 107 F. Supp. 2d 1332 (N.D. Okla. 2000); Winton v. Board of Com'rs of Tulsa County, Okl., 88 F. Supp. 2d 1247 (N.D. Okla. 2000); Hallmark v. Martin, 112 F. Supp. 2d 1122 (N.D. Okla. 2000); F.D.I.C. v. Frates, 44 F. Supp. 2d 1176 (N.D. Okla. 1999); United States v. \$189,825.00 in U.S.

Currency, 8 F. Supp. 2d 1300 (N.D. Okla. 1998); U.S. ex rel. Koch v. Koch Industries, Inc., 188 F.R.D. 617 (N.D. Okla. 1999); U.S. ex rel. Koch v. Koch Industries, Inc., 57 F. Supp.2d 1122 (N.D. Okla. 1999); U.S. ex rel. Koch v. Koch Industries, Inc., No. 91-CV-763-B, 1995 WL 812134 (N.D. Okla. Oct 06, 1995).

To date over 100 written opinions have been published in the Westlaw reporting service.

- **FULL COMPLEMENT OF CRIMINAL JUDICIAL WORK:**

EXPERTISE IN MEDIATION AND ARBITRATION:

During 14 years on the bench Judge Joyner has conducted over 400 mediations of which over 50% resulted in settlement, specializing in complex, multi-party cases.

Subject matter includes virtually every type of civil litigation including energy, copyright, banking, entertainment, title insurance, environmental, health care, intellectual property, patent, trademark, labor and employment, environmental, PSLRA securities fraud, personal injury, real estate contracts and lease, construction contracts, tribal sovereignty and other issues involving Native American casinos, insurance contract disputes, trade secrets, product liability, commercial and business disputes, class actions, negligence, motor vehicle injuries, State and Federal Civil Rights violations, Corporate law including shareholder, partner and director disputes, and mass torts.

One toxic tort case successfully mediated included 94 plaintiffs, all present for the mediation. Another toxic tort case regarding the application of chicken waste to the watershed by large chicken processors included a municipal plaintiff, numerous defendants and 12 days of active mediation, including 3 days with experts in Chicago to reach consensus on science relating to water contamination. Subject matter includes virtually every type of civil litigation with emphasis in intellectual property, patent, trademark, labor and employment, environmental, PSLRA securities fraud, personal injury, product liability, commercial and business disputes, class actions and mass torts.

Judge Joyner retired from the bench in January, 2009. Since retirement he has had an active practice as a mediator and arbitrator. Continuing this emphasis on environmental mediation, Judge Joyner successfully mediated claims against 6 defendants for lead mining contamination at the Tar Creek EPA site.

•INTERNATION ACADEMY OF MEDIATORS: Member and attendee at Spring training conference, New York City, NY, April 15, 2009.

•AMERICAN BAR ASSOCIATION, ADR SECTION: Member and attendee on Mediation Training, February 12, 2009.

•AMERICAN BAR ASSOCIATION, ADR SECTION: Member and Attendee at Mediation Training conference, New York City, NY, April 17, 2009. 2010, 2011.

•AMERICAN ARBITRATION ASSOCIATION: Panel Member. 2009, 2010, 2011.

EXPERTISE IN ELECTRONIC DISCOVERY:

Judge Joyner was active on the bench in electronic discovery issues and is the author of the *Guidelines for Electronic Discovery* currently used in the Northern District. Judge Joyner served as Editor-in-Chief of the *Federal Courts Law Review* from 1999 through 2005. See www.fclr.org. During this tenure Judge Joyner presided over a symposium dedicated to electronic discovery issues and implementation of the new Federal Rules of Civil Procedure on electronic discovery. The symposium generated excellent articles from academics, judges and practitioners and caused the law review to become a seminal resource on electronic discovery.

He is a frequent presenter on electronic discovery at seminars around the country including but not limited to the following

- Presenter at Electronic Discovery Seminar, Charleston School of Law, 4-12-2007. (With Professor Richard Marcus, Special Reporter to committee on civil rules that wrote the Federal Civil Rules on Electronic Discovery.)
- Annual American Bar Assn National Institute on White Collar Crime, 3-5-2009, San Francisco, California.
- Privacy in Electronic Discovery, Charleston School of Law , 2008.
- Environmental Law Section of the Oklahoma Bar Assn, 6-6-2008.
- Annual Oklahoma Bar Association Advanced Bankruptcy Seminar, 12-4-2008.
- Seminar with RLS Legal Solutions, Tulsa, 5-23-2007.
- Presenter at Tulsa County Bar Seminar on Electronic Discovery, 5-3-2007.
- Presenter at the Oklahoma Bar Association Annual Meeting, 9-8-2007.
- Seminar for National Business Institute, 11-18-2007.
- Panelist on Oklahoma Bar Association, "Litigation in the Digital Age" 12-14-2007.
- Panelist on Tulsa County Bar CLE on Electronic discovery, 11-12-2010.

Judge Joyner has served as Discovery Referee in four cases in state court, Tulsa County, appointed by Judges Linda Morrissey and Mary Fitzgerald.

INTEREST IN DIVERSITY ISSUES:

- Concentration in feminist jurisprudence and women's issues in Masters Degree.
- Appointed by in 1996 as the EEOC coordinator for the Northern District of Oklahoma.
- Speaker at Tulsa Women Lawyers Association, May 9, 1997.
- Speaker at Oklahoma Bar Association Women in Law Conference on August 28, 1997, with Supreme Court Justice Ruth Bader Ginsburg.
- Speaker at the Oklahoma Bar Association Women in Law Conference, September 28, 2006. "I Am Woman Hear Me Roar—Are the Good Ole Boys Listening?"

HONORS AND AWARDS:

- **Editor in Chief, Federal Courts Law Review**, 1998 through 2005. Located at www.fclr.gov. Responsible for the design and format of the website from inception and publication of 25 articles out of 84 submissions.
- **Oklahoma Bar Association Judicial Excellence Award**, November, 2007. "For excellence of character, job performance or achievement while a judge and service to the bench, bar and community."
- **Tulsa County Bar Association Golden Rule Award**, September, 2006. "Awarded to the lawyer who consistently demonstrates great skill in the law and who does so while adhering to the very highest of ethical standards."
- **Fellow, American College of Trial Lawyers**, inducted 1983.

LAW SCHOOL ACADEMICS, HONORS AND ACTIVITIES:

At the University of Oklahoma College of Law, Judge Joyner graduated as valedictorian of the 129 member graduating class, having maintained this rank throughout the six semesters of law school receiving the Juris Doctorate Degree "With Honors".

During law school, he also received the following honors: Order of the Coif, 1966; Oklahoma Bar Association Award for Outstanding Law Student at Oklahoma University, 1966; President, Senior Class, OU Law School, 1966. As a member of a 3 person Moot Court Team, he achieved the following: National Moot Court Competition,

1965, won second place in regional competition in New Orleans, Louisiana, tied for third place in National Competition, New York City; National Moot Court Competition, 1966, won first at regional competition, Austin, Texas; Oklahoma Moot Court Competition, won first place before the Oklahoma Supreme Court, 1965.

He served as Note Editor for the Oklahoma Law Review and contributed the following articles: "Possession of Land as Notice to Subsequent Purchaser" 18 O.L.R. 179 (1965); "Abatement of Second Action When Parties Reversed" (19 O.L.R. 107 (1966); "Sonic Boom-a Legal Nightmare" 19 O.L.R. 292 (1966).

POST-LAW SCHOOL MASTERS DEGREE:

- Masters Degree, University of Oklahoma, June 1987.
- Five year course of study included the humanities, the law, and educational psychology and how these should be integrated to teach law and legal ethics.
- Wrote a 175-page Masters' thesis which reviews ethical problems of the legal profession and recommends specific changes in law school curriculum and instruction.

TEACHING EXPERIENCE:

- Taught Professional Responsibility at the University of Oklahoma College of Law in 1989 and 1990. The course explored the moral and legal limits of acceptable conduct by lawyers and judges. I put into practice theories developed in my Masters' thesis to produce a more morally sensitive law graduate.

PRIVATE LAW PRACTICE:

Upon graduation from law school, he returned to his hometown (Lawton, Oklahoma) and began a private law practice under the firm name Godlove, Joyner, and Godlove.

- Association with the firm was continuous for 29 years until appointment to the current Magistrate Judgeship in June 1995.
- Practice was divided between litigation and transactional work.. Typical clients ranged from The Lawton Industrial Development Authority to Goodyear Tire and Rubber Company with their manufacturing facility in Lawton.
- Litigation was diverse, from plaintiff's personal injury to product liability defense.
- Court appearances occurred biweekly. Cases tried to verdict or judgment averaged six to eight per year with 25 percent of those to a jury.
- Inducted as a fellow in the American College of Trial Lawyers, 1983.

PART-TIME JUDICIAL OFFICE:

- Part-time United States Magistrate Judge for the Western District Oklahoma in Lawton, Oklahoma for 20 years, February 1975 through May 1995.
- One of three most active part-time Magistrate Judge positions in the United States, the court administered 3,500-4,000 criminal offenses annually with

fines in excess of \$200,000.00.

LAW-RELATED ASSOCIATIONS:

I hold past or present membership in the following law-related associations:

- a. American College of Trial Lawyers, Fellow, 1983.
 - Presenter at the Regional Meeting, Colorado Springs, CO, 11-2-2006, "The Disappearing Jury Trial".
- b. Federal Magistrate Judges' Association, former Director.
- c. Administrative Office of U.S. Courts, Advisory Committee on U.S. Magistrates.
- d. Tulsa County Bar Association.
 - Keynote speaker for 1995 Annual Meeting.
 - Speaker at 1997 Law Day Luncheon.
 - Instructor at May 1997 Continuing Legal Education course.
- e. American Inns of Court, Hudson-Hall-Wheaton Chapter.
 - 1996 - President and Judicial Master, conducted annual joint banquet with all three Tulsa Inns of Court, gave opening remarks and introduction of guest speaker; Directed presentation on discovery.
 - 1995 - Judicial Master, directed presentation on direct & cross examination.
- f. Oklahoma Bar Association.
- g. American Bar Association
- h. Order of the Coif.
- n. Phi Delta Phi Legal Fraternity --- President.

PUBLICATIONS AND PRESENTATIONS:

Editor-in-Chief, *Federal Courts Law Review*, 1998 to 2005, located at www.fclr.gov.

Presenter at Oklahoma State Women in Law Conference, September 28, 2006. "I Am Women Hear me Roar—Are the Good Ole Boys Listening?"

Panelist on ABA Teleconference on "Litigating Posttraumatic Stress Disorder" (April 15, 2003).

Forward, *Psychological Injuries at Trial*, American Bar Association (2003)

A Planetary Survey of Feminist Jurisprudence: If Men are from Mars and Women are from Venus, Where do Lawyers come from?, 33 Tulsa L. Jour.1019 (1998).

Sam A. Joyner, *Law School and Legal Ethics -- A Part of the Illness or the Cure?*, 60 Okla. B.J. 743 (1989). This ten page article surveys the lawyer's

negative image, real ethical concerns, and the extent to which law school contributes to both.

Presenter at the American College of Trial Lawyers Meeting, Colorado Springs, CO, Oct., 2006 on "The Vanishing Jury Trial."